Art militaire
et marine N°1

MEMOIR

RESPECTING CERTAIN RECENT DISMISSIONS FROM THE MILITIA OF THE PROVINCE OF LOWER-CANADA.

On the 26th June, 1828, the following General Order was published in the Quebec Official Gazette of the administration of His Excellency Earl Dalhousie.

Office of the Adjutant General of Militia,
QUEBEC, 25th June, 1828,

No. 2.
GENERAL ORDER,

Certain complaints having been stated to the Governor and commander in Chief against Officers of the Militia on the retired list as well as in the Battalion of the counties of Richelieu and Surrey, founded upon their conduct at a Public Meeting held in January last at Verchères in the county of Surrey, His Excellency caused notice to be given to these Officers that he would himself offer them an opportunity to explain and justify their conduct in presence of Lieut.-Col. De Martigny, commanding the 1st battalion of Surrey, at Varennes, on the 20th inst. These Officers, however, failing to give any satisfactory explanation on the subject, or offering any excuses for their lawless conduct, His Excellency feels it his duty in this public manner to cancel and annul whatever Commissions they may hold as Officers in the Militia of the Province of Lower-Canada, viz:—

Lieut.-Col. Malhiot, on the retired list.—Captain Amyot, do. do.—Major F. V. Malhiot, Battalion of Surrey.—Capt. Paschal Chagnon, do. do.—Ditto. François Chagnon, do. do.—Major J. T. Drolet, 2d. Battalion of Richelieu,—Capt. Bougret Dufort, do. do.

By order of His Excellency the Governor General and Commander in Chief.
F. VASSAL DE MONVIEL, Adjt. Genl. M. F.

The Members of the Committee named by the Freeholders of the District of Montreal for the purpose of transmitting their Petition and taking all measures for its support and for corresponding with their Agents, having assembled at Montreal on the 3d July last, resolved that an inquiry should be made in the most formal and regular manner into the circumstances referred to in the General Order and which produced and accompanied these dismissals. An inquiry was accordingly held on the spot, at which the Honorable P. D. Debartzch one of the Members of the Legislative Council presided, and at which Magistrates, Members of the Assembly and other persons worthy of credit were present. The depositions received at it were previously sworn to before a Justice of the Peace. The originals of the said depositions are in the hands of the Agents now in England as also the proceedings of the said Freeholders and of the enquiry.

It appears from the depositions that his Excellency in his conversation at Montreal with Lieut. Col. Malhiot and in his language at Varennes, avowed that their political conduct was the cause of the dismissal of the Officers, and that his Excellency was instigated thereto by the part they took in signing the Petition for redress of grievances, in common with the other inhabitants of this Country.

That His Excellency has punished them in a military manner for their civil conduct.

That supposing (which is against all constitutional principles and established rights) that His Excellency was justified in calling British Subjects, freeholders and landholders, to account to him personnally, for their conduct at a public meeting for the redress of grievances, and to punish them for not acting at said meeting with military subordination and obedience to superior officers—yet it is established by the affidavits that there was no just grounds, even in this unconstitutional point of view, for the proceedings of his Excellency and for his general order.

It appears that the conduct of the Officers dismissed, at the meeting held at Verchères for the purpose of petitionning the King and Parliament, which his Excellency has given as the cause of their dismissal, was loyal, peaceable, legal and becoming British Subjects using the most important of their

Rights; that these Officers were not guilty of any violence against the laws or against lieut. col. de Martigny, the officer upon whose complaint they were dismissed; that on the contrary the Sons of the said Martigny and others disturbed the said Assembly and went there with express design of disturbing it and raising noise and clamour in it, and troubling the peaceable freeholders and landholders in the orderly and quiet exercise of their lawful Rights.

It is established that his Excellency and others employed by him in this affair constantly refused, before and since the said intervew, to allow the said Officers a copy of the complaints brought against them, or permission to rebut the charges and justify themselves.

As an evidence of the merit and loyalty of several of the Officers dismissed, there is accompanying this, a copy of a letter addressed to some public Journals and published in them, from the Honorable Charles de St. Ours, one of the Members of the Legislative Council and a Field Officer in His Majesty's army.

To the Editor of the Canadian Spectator.

St. OURS, 8 July, 1828.

SIR- I learn by the General Order of Militia, dated the 25th June last, that the Commissions in the militia of this Province, of X. Malhiot and F. V. Malhiot, Esquires, have been cancelled.

Without attempting to penetrate into the reasons which have brought about these unexpected dismissons, I cannot help giving my opinion, that it is much to be regretted that the militia of this Province, and particularly that part of it where these Gentlemen reside, should be deprived of the services of Officers as zealous as they are gallant and intelligent.

Nobody can better know the merit of their services, than one who like me had the honor of having them several years under my command as Staff Officers of the division of militia of St. Ours; and I shall never forget how useful Lieut.-Col. Malhiot was to me, and even how necessary during the incorporation of this division in the last war; at a time I had the honor to have under my command the gallant Officers and militiamen of Sorel, St. Ours and Contrecœur, who marched to the frontiers and remained there for more than two months, ready to sacrifice every thing in the service of their King and country, as several thousand others of our fellow-countrymen were doing.

I can assure Messrs. Malhiot, *that all the Officers and militiamen who then formed the divison of St. Ours, while they both were on the Staff, retain the most respectful esteem for them, and I beg them to receive the assurances of my own in particular.*

Ch. H. DE St. OURS,
Colonel of the 1st Bat. of the Militia of Richelieu.

PROVINCE OF
LOWER CANADA.

AT A MEETING *OF PROPRIETORS AND FREEHOLDERS of the City and County of* **MONTREAL**, *forming a* **COMMITTEE** *named by the People at a General Meeting of proprietors held at Montreal on the 18th day of December last, to have transmitted to His Majesty and the Imperial Parliament their Petition against the Colonial administration, and to promote the object of the said Petition, held at Montreal on the 28th day of July* 1828.

LOUIS ROY PORTELANCE ESQR. in the Chair.

THE special Committee to which by an order of this Committee dated 24th July, were referred the Depositions and other Papers relative to the late Proceeding of His Excellency the Earl of Dalhousie at Varennes and to the dismission of certain Militia Officers, and the General Militia Order publishing said dismissals, having reported on the subject of the said reference, and their report having been read:

RESOLVED—1.—That said report is approved.

2.—That it is the ancient and undoubted Right of British Subjects, without let or hindrance, peaceably to assemble and discuss the political affairs of their Country for the purpose of petitioning and for redress of Grievances; that said ancient and undoubted Right was asserted and recognized in the "BILL OF RIGHTS" at the glorious and immortal Revolution by virtue of which his present Majesty sits on the Throne of the British Empire.

3.—That the declaration of his Excellency the Earl of Dalhousie to Lieut. Col. Malhiot, namely, that the peaceable and lawful Meeting of the Freemen and Landholders at Vercheres to petition the King and Parliament against his Excellency's administration was *seditious*, and that such Meetings should not be attended by Militia Men but should be prevented by them, was a declaration which inculcated an outrage on the said ancient and undoubted Right, and an insult to the BILL OF RIGHTS which is peculiarly indecent in a public functionary.

4.—That such a rule as that which his Excellency thus laid down, in a Country where the whole male population from 16 to 60 are declared Militia Men, would, if inforced, be a high crime and misdemeanour, in as much as it would break the "BILL OF RIGHTS," and by military rule, prevent the King's Subjects from peaceably meeting to petition and legally sue for redress of Grievances. It would render his Excellency's administration despotic, by imposing silence and abject submission on the people, and would deceive the King and his Parliament and the people of England as to the character of his Excellency's Conduct and Administration, by not allowing them the means of learning the Truth.

5.—That all the Subjects of the King, meeting as Freemen, Freeholders and Landholders, stand, at such Meeting on equal footing; and no military character, station or power is recognized at such Meetings

6.—That the application, by the Earl of Dalhousie, to such Meetings, of the rules of military subordination, and his requiring the Freemen, Freeholders and Landholders, who are also militia men, when attending such meetings, to be *governed* in their conduct towards such persons present as may bear militia commissions, by the rules of military submission and deference necessary when on parade or under arms, is an insult to British Subjects, a violation of their Rights, an impediment to the freedom of opinion and conduct necessary on such occasions, and tends to establish Military Despotism.

7.—That it was unconstitutional and a breach of order and legal Government in his Excellency the Earl of Dalhousie to call before him Freemen and Landholders of the Province, and require them to answer to him, personally, for their political conduct at a public Meeting, and to pronounce a public and peaceable meeting of Freemen, Freeholders and Landholders *seditious*; in as much as there are tribunals specially constituted to take cognizance of any breach of the Laws in such cases; and it is forbidden to the Chief of the Executive to judge and pronounce, in his own person, on such acts.

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8.—That it was unconstitutional, a breach of good order and a breach of the bill of Rights in his Excellency the Earl of Dalhousie, and an act deserving impeachment, to punish as militia men, Subjects of the King, being Freemen Freeholders, and Landholders, for acts done in their civil capacity as such, not being a breach of the Law, nor called in question in any civil Court.

9.—That it was unconstitutional and a breach of order and good Government and derogatory to the head of the Executive for the Earl of Dalhousie, to interfere, personally, to avenge the quarrels of the sons of Mr. Martigny one of his partisans, and to use his power for their gratification, and for the purpose of forcing Freemen, Freeholders and Landholders, subjects of the King, to the ignominy of apologizing to these persons for offences or supposed offences received by them at a meeting of such Freemen, Freeholders and Landholders.

10.—That even if his Excellency had a constitutional authority to take cognizance, personnally, of such matters, he should have furnished those charged, with a copy of the charges, and have heard their justification; both of which he refused to do—and thereby, in an arbitrary manner, punished them to gratify the resentment of the Martignys his partisans; though it is established by proof, that the Martignys went to the meeting in order to disturb it, to create a clamour, and to impede his Majesty's Subjects, the Freemen, Freeholders and Landholders of the county, in the peaceful exercise of an ancient and undoubted right.

Bibliothèque, Le Séminaire de Québec, Université, Québec 4, QUE.

11.—That the General Militia Order of the 25th June last, issued by his Excellency, publishing the dismissions in this case, is an open military violation of the Rights of British Subjects; and by publishing that the conduct of Subjects of the King, being Freemen, Freeholders and Landholders was "*Lawless*," although not even impeached in any Court of law, or by any of the law officers, the said order is a calumny on his Majesty's Subjects and a violation of decency and good order.

12.—That the conduct, expressions and avowals of his Excellency the Earl of Dalhousie, in this case as in others, are unjust and despotic, evincing a disposition for an absolute military Government, and afford an additional proof of the correctness of one of the charges against his Excellency contained in the Petition of the people, namely, that of employing his influence as Commander in Chief to restrain the people of the country in the exercise of their political Rights and of using militia commissions, favours and punishments to coerce the expression of public opinion on the Civil Administration of his Excellency.

13.—That the conduct of his Excellency the Earl of Dalhousie is calculated to corrupt that OPINION upon which, and not upon brute force, the connexion between different parts of the British Empire can alone securely rest.

14.—That nothing can or will prevent the people of this province, who must have some regard to their own Rights and Feelings, from soliciting at any time and at all times, the recal of any Governor whose administration shall be as offensive to the Freemen, Freeholders and Landholders of the province, as that of his Excellency the Earl of Dalhousie; and which shall, like his, evince on all occasions, military maxims and a military spirit in administering the Government of Freemen.

15.—That these Resolutions, and the depositions and other papers detailing and elucidating the circumstances of this case, and the report of the special Committee, be forthwith transmitted to our Agents, who are requested to communicate the same to the Members of the Committee, now investigating the affairs of this province, to Mr *Hume* who seems to feel so strongly the evils of a military Governor, and particularly to call to them the attention of the Right Honorable WILLIAM HUSKISSON, in order that that gentleman may see what an injurious spirit his justification in Parliament of Lord Dalhousie's administration has unhappily fostered; and to make such further and other use of them as will best support the Interests of their Country.

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